

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

GENERAC POWER SYSTEMS, INC.,

Plaintiff,

v.

Case No. 2:11-cv-00935

KOHLER COMPANY,
CORE CONSULTING, LLC, and
GREG SCHMIDT,

Defendants.

**PLAINTIFF'S NOTICE UNDER RULE 41(a)(1)(A)(i) OF VOLUNTARY DISMISSAL
WITHOUT PREJUDICE**

Pursuant to F.R.C.P. 41(a)(1)(A)(i) and based upon sworn declarations and other representations made by Defendants, Plaintiff Generac Power Systems, Inc. hereby voluntarily dismisses without prejudice the claims against Kohler Co. ("Kohler"), Core Consulting, LLC. ("Core") and Greg Schmidt ("Schmidt"). Kohler, Core and Schmidt have filed neither an answer to the complaint nor a motion for summary judgment as to these claims. While Kohler, Core and Schmidt have filed a motion to dismiss under Rule 12(b)(6) (see Docket Nos. 10 and 15), such filings do not qualify as motions for summary judgment or answers. *Marques v. Fed. Reserve Bank of Chicago*, 286 F.3d 1014, 1017 (7th Cir. 2002). Dismissal without prejudice under Rule 41(a)(1)(A)(i) is therefore appropriate.

Generac Power Systems, Inc.

By its Attorneys,

Date: December 9, 2011

s/ H. Michael Hartmann

H. Michael Hartmann

David M. Airan

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